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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 361st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 17 January 1997, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of the Syrian Arab Republic (continued) (CRC/C/28/Add.2; CRC/C/Q/SYR.1 (list of issues); written replies from the Syrian Government (document without a symbol))

1. At the invitation of the Chairperson, the members of the Syrian delegation took places at the Committee table.

2. The CHAIRPERSON invited the Committee members to put their questions to the members of the Syrian delegation.

3. Mrs. EUFEMIO requested information about the situation of Christian children adopted by Christian families. Might they be subject to discrimination?

4. Mr. HAMMARBERG referred to the importance in general of the harmonization of legislation. The question of early marriage well illustrated the need for clear legislation, all the more so as that thorny issue was bound up with the country's traditions. It was important to take measures to prevent the marriage of girls before the age of 18, a practice that was contrary to respect for women's rights and the principles set forth in the Convention on the Elimination of All Forms of Discrimination against Women, even if the Syrian Arab Republic had not ratified that Convention.

5. He noted that there were several women's organizations acting with initiative and independence in the Syrian Arab Republic. Their activities should be encouraged by the Government. In addition, it would be useful for the Syrian authorities to cooperate with international non-governmental organizations (NGOs) that could bring to bear all their experience in the field of children's rights. Positive cooperation had, for example, been established with a Swedish organization concerned with the disabled.

6. Mr. KOLOSOV said he was not satisfied with the discussion held at the previous meeting on the reservations which had been made by the Syrian Arab Republic to the provisions of article 14, concerning the right of the child to freedom of religion, and articles 20 and 21, concerning adoption, on the ground that those provisions were not in conformity with the country's legislation and with the principles of the Shari'a. The reservations were formulated in such a way as to render the articles in question meaningless. It should be pointed out that the Islamic community was not the only community in Syria. However, it appeared from the reservations that children belonging to Christian communities were deprived of the protection guaranteed by article 14, especially in the case of adoption. All those reservations had a negative impact on the children of non-Islamic communities and should therefore be reconsidered.

7. He would welcome clarification regarding the age of criminal responsibility and the Juvenile Delinquents Act. There was no justification, in his view, for bringing criminal proceedings against children who were 8 or 9 years of age.

8. Mr. MOMBESHORA said he understood that the family planning service in the Syrian Arab Republic aimed to harmonize population growth with economic resources. He would like to know whether that service covered all parts of the country and what was the attitude of men towards family planning. In addition, he would like some details about the "traditional patterns of fertility". It would also be of interest to have fuller information about spending on health care and social services in relation to the defence budget.

9. The CHAIRPERSON invited the Syrian delegation to reply to the questions asked by members of the Committee.

10. Mr. NSEIR (Syrian Arab Republic) said that the authorities of his country had entered reservations to article 20 of the Convention (concerning adoption) as a precaution in order to avoid any misunderstanding, since Kafala constituted an alternative protection in Islamic law. It permitted, in some cases, the recognition of a certain lineage (even when the marriage was illegal or customary). Islam was the predominant religion in the Syrian Arab Republic. However, marriages and divorces were pronounced officially by the appropriate authorities of each religion and, in that regard, the general law therefore applied to Christian children, even in cases of adoption by Christian families.

11. Early marriages were becoming increasingly rare. The Government was taking measures in the framework of compulsory education and with the assistance of NGOs active in the cities and rural areas. However, if a girl became pregnant, she rarely agreed to stay in her family and generally opted for marriage, which was registered only if the girl was at least 14 years of age. The law on marriage currently set the permitted age at 18 years for males and 17 years for females. Some NGOs had proposed harmonizing the age of marriage for men and women, in the spirit of the Convention.

12. Concerning statistics, he had some recent figures for all age groups and would transmit them to the secretariat. He also undertook to ensure that such statistics appeared in future periodic reports of the Syrian Arab Republic.

13. Turning to the question about the provisions of the law concerning the prosecution of minors, he said that in the Syrian Arab Republic the definition of "child" corresponded to that of article 1 of the Convention. The age of civil responsibility was 18 years and the age of criminal responsibility was 15 years. Thus, at the age of 15, a child could appear in court and make a statement, although without being required to take an oath, and that statement would be considered solely as evidence. Different sanctions were applied depending on the age of the child offender (up to 7 years, from 7 to 15 years, and from 15 to 18 years). Children aged under 15 were not kept in detention, but placed in re-education centres, separated from adults. A prison sentence handed down against a young person aged 15 to 18 could not exceed 12 years. He referred the members of the Committee to the initial report for a detailed description of the administration of juvenile justice in the Syrian Arab Republic.

14. Mr. DAWALIBI (Syrian Arab Republic) said that the Higher Committee for Child Welfare had been established in 1982, under the chairmanship of the Deputy Prime Minister, with the object of strengthening and coordinating the

activities of all parties working on behalf of children in order to maximize the use of existing facilities. The First National Conference on the Survival, Development and Protection of Children had been held in 1991 and a national action plan had been adopted following that Conference.

15. In schools teachers were very conscious of the need to treat pupils fairly. In the re-education centres, children who believed that they were victims of violations could complain to the authorities and the Attorney-General was required to examine any complaints he received.

16. Adoption was not provided for in the Islamic Shari'a, but in respect of children of unknown parents Syrian law provided for Kafala, which was a system of solidarity whereby persons able to do so were called upon to help those in need. At the same time, the rights of members of other confessions were fully guaranteed.

17. Mrs. BADRAN remarked that the constitutions of most Arab countries stipulated that the Shari'a was the principal source of all law. As adoption was not provided for in the Shari'a, those countries had consequently made reservations to articles 20 and 21 of the Convention and any State wishing to withdraw those reservations would therefore have to modify its constitution. The question had been asked whether such reservations were incompatible with the object and purpose of the Convention and it was agreed that that was not the case. Indeed, the system of filiation was considered by many as superior to the system of adoption and, in that regard, it should be remembered that article 41 of the Convention stipulated that nothing in the Convention should affect any provisions which were more conducive to the realization of the rights of the child and which might be contained in the law of a State party. As to the application of article 14, it should be recalled that the Shari'a prohibited apostasy, thus accounting for the reservation made by the Syrian authorities concerning that article.

18. Mr. KOLOSOV pointed out that the Convention explicitly prohibited all discrimination on religious grounds. Muslim children could be treated according to the precepts of the Shari'a and Christian children according to Christian tradition, but they must all enjoy the same rights. In his view, the fact that the Syrian Constitution enshrined the Shari'a as supreme law did not justify the reservations made by the Government to certain articles of the Convention.

19. Mr. HAMMARBERG said that there was no need to dwell on the cultural differences between countries as long as the common goal was the full realization of the best interests of the child. Furthermore, article 20 of the Convention, which provided for alternative protection of a child deprived of his or her family environment, referred both to Kafala of Islamic law and to adoption, without making any judgement on the respective merits of the two systems. As he understood it, the reservations made by the Syrian authorities were intended simply to make it clear that Syrian laws did not recognize the system of adoption.

20. The CHAIRPERSON said that she fully shared that opinion and saw the reservations as having something of a preventive character. It would perhaps have been better for the Syrian authorities to have made a declaration rather than formulate reservations, and they might consider that possibility.

21. Mrs. ABIR JARF (Syrian Arab Republic) said that family planning services were provided, in collaboration with UNICEF, by the various bodies attached to the Ministry of Health. The public was well informed about the various services, which were supplied free of charge. Furthermore, there was a family planning association with offices at the regional level. An ambitious programme, entitled "Healthy villages", guaranteed that the services and care which women needed were provided in each village by a doctor and a social worker. The Syrian authorities also aimed to raise awareness among girls of school age so that they were well informed by the time they reached the age of 18. The proportion of the national budget devoted to education had increased from about 7 per cent in 1995 to roughly 11 per cent in 1996.

22. Mr. NSEIR (Syrian Arab Republic) added that the Syrian Constitution guaranteed NGOs protection and cooperation on the part of the Government, provided that they were working in the country's general interest.

23. The CHAIRPERSON invited the members of the Committee to ask questions concerning the definition of the child and general principles.

24. Mrs. SANTOS PAIS encouraged the Syrian authorities to ensure regular cooperation between the Higher Committee for Child Welfare and the National Committee for Children so that any overlapping of activities would not in practice be detrimental to the full realization of the rights of the child. On another point, she regretted the fact that neither the initial report nor the written replies supplied by the delegation contained precise data on early marriages, the ethnic origin of children or the situation of the disabled. The Committee wished to have information specific to children (by age, sex, origin, etc.).

25. Article 12 of the Convention required that the child should be provided with the opportunity to be heard in any judicial or administrative proceedings affecting the child, yet the Syrian delegation had indicated that a child under 18 was not allowed to go to court. Was the Syrian Government intending to align national legislation with the provisions of the Convention in that regard?

26. The fact that married girls were not allowed to continue primary and secondary education was hardly justifiable from the standpoint of observance of the child's best interests and right to education. She would also like the provisions concerning the legal age of marriage for girls - set at 17 years - to be reviewed, and pointed out that there was a contradiction between the authorization of early marriage and the fact that the family planning services were intended only for women from the age of 18 years. She noted furthermore that the principles of the Arab Ba'ath Socialist Party prohibited any discrimination between citizens based on sex, origin, language and religion and that the Constitution provided that all citizens were equal before the law. However, article 2 of the Convention went much further, since it

prohibited all forms of discrimination against any child within the jurisdiction of the State party and therefore applied, inter alia, to children who were aliens, stateless persons, refugees or asylum-seekers. In that regard, it would be useful to know what measures were being taken to ensure that such children, in particular those belonging to the Kurdish minority, enjoyed all the rights set forth in the Convention, notably concerning the registration of births, access to education and the acquisition of a nationality.

27. Mrs. KARP said that she would like to know the size of the population aged under 18 years, since that figure did not appear in the statistics provided by the Syrian delegation, which included persons aged 19 in the same category as younger persons. She also noted that, under the Law of Evidence, a minor aged 15 was not entitled to testify in court unless he or she had been the victim of sexual abuse. Might it not be worth while to change the law so that a minor aged 15 could testify in any case where the judge believed the child was sufficiently mature, and also so that any child, in conformity with article 12 of the Convention, had the opportunity to be heard in any judicial or administrative proceedings affecting him or her, particularly concerning the choice of the parent to be granted custody or in the case of disciplinary action being taken against the child at school?

28. Mr. MOMBESHORA asked whether the relative failure of the family planning policy, as witnessed in particular by the annual growth rate of the population, which had increased from 3.31 per 1,000 in 1981 to 3.35 per 1,000 in 1994, was due to the fact that men were not sufficiently involved in putting that policy into effect. Regarding the State budget, he would like to know the respective amounts of the resources allocated to the social sector, defence, education and health. In addition, the report stated that the wife could not take her children on a journey without the consent of her husband: could the Syrian delegation indicate whether that obligation applied equally to the husband? Lastly, the fact that nursery schools and kindergartens were not available for disabled children (para. 147 of the initial report) was, in his view, a flagrant case of discrimination against that category of the population.

29. Mrs. EUFEMIO asked about the age from which children, without their parents' consent, could consult a doctor, receive medical treatment, engage in sexual intercourse, enrol in the army, go to law, know the identity of their natural parents, set up an association, smoke tobacco and drink alcohol. The report indicated that the law prohibited all discrimination based on gender and yet the illiteracy rate was higher for girls than boys. She would therefore like to know what measures were being taken to give full effect to the law and to determine, using appropriate indicators, the areas in which efforts should be made to put an end to such discrimination in practice.

30. Mr. HAMMARBERG said that the number of early marriages should be reduced not by punishing adolescents who became pregnant - they should be seen as victims needing help and not as guilty persons - but by changing attitudes. With regard to cooperation with non-governmental organizations, he strongly encouraged the Government to determine, in a spirit of openness, the conditions in which NGOs could pursue their efforts on behalf of children. Concerning Kurdish children who were born in the Syrian Arab Republic and

treated as aliens or stateless persons ("Maktumeen"), the Syrian delegation might wish to state what measures were being taken, in accordance with the Convention, to regularize their situation. Lastly, he invited the Syrian Government to do its utmost to give full effect, both at the legislative level and in practice, to article 3, paragraph 1, of the Convention, which required that "the best interests of the child shall be a primary consideration".

31. Mrs. BADRAN agreed with Mrs. Santos País and Mr. Hammarberg on the question of early marriages. In general, early pregnancies principally affected girls from poor families and there was a link between early marriage and dropping out of school. The use of contraceptives could not remedy that problem alone. There was a need to change attitudes and, for that purpose, to adopt a comprehensive approach that did not neglect any aspect of the problem. The collaboration of UNICEF could prove very useful in that regard. There was also a need to make every effort to ensure that children were not obliged to work, for a working child was deprived of the rights to education and leisure set forth in the Convention.

32. Concerning the right to a nationality, she asked whether the campaign by the Syrian Women's Federation to ensure that the child of a Syrian mother and foreign father automatically acquired Syrian nationality, in the same way as a child with a Syrian father and foreign mother, had been successful. Lastly, regarding the best interests of the child, which must have the highest priority of all, she would like to see all persons responsible for taking decisions affecting children, especially teachers and magistrates, receive thorough training in child psychology.

The meeting was suspended at 12.05 p.m. and resumed at 12.15 p.m.

33. Mr. NSEIR (Syrian Arab Republic) said that every child had the right to a name, which was given by the father, or by the mother if the father was unknown, or else by the civil registrar if both parents were unknown (see para. 65 of the report).

34. Under the Nationality Act No. 276, a child was deemed to be Syrian Arab if he or she was born in the Syrian Arab Republic or abroad to a Syrian Arab father; born in the Syrian Arab Republic to a Syrian Arab mother and unknown father; born in the Syrian Arab Republic to parents who were unknown or stateless; or born in the Syrian Arab Republic to parents who were aliens whose nationality the child could not acquire. Accordingly, in the Syrian Arab Republic there was no child who did not have a name and nationality (see para. 66 of the report). The higher interest of the nation nevertheless prevailed over the particular interest of individuals. A brief historical review would aid understanding of the situation of the "Maktumeen" in regard to nationality. From 1945 onwards, numerous Kurds from neighbouring countries had settled illegally in Syria, chiefly in the Al Hasaka region, and many had succeeded in fraudulently obtaining Syrian identity cards. To remedy that situation, in 1962 the Government had conducted a census during which the inhabitants of that region able to prove that they were Syrians had been entered in a new civil register. The others had been listed as aliens in another register especially created for that purpose. However, persons believing that they had been classified erroneously as non-Syrians had appealed against that decision. It had consequently been decided to take into

account persons included in the civil registers before 1945, persons of Christian or other religions registered up to 1959, persons residing in the country before 1945, persons retired from the civil service or the army and persons employed in the civil service or having worked for the State for at least 10 years at the time of the census. As a result, the number of officially registered aliens had dropped from 80,000 in 1962 to 40,000 in 1976; births had increased that figure to 45,000 in 1985 and 67,000 in 1995. After the census, other persons had entered Syria illegally to settle in the Al Hasaka region. Although there were no official records concerning them, their number was estimated at 60,000 in 1985 and 70,000 in 1995. The children of aliens residing in the region in question were admitted into schools in the same way as Syrian children.

35. Concerning the acquisition of Syrian nationality, the law contained provisions allowing for humanitarian treatment of very isolated specific cases, but it did not provide for the granting of Syrian nationality to aliens entering Syria illegally with political or other aims. The law furthermore provided that nationality could be obtained only on an individual, and not a collective, basis.

36. Regarding the comments on the statistics provided, it was true that the data could have been more detailed, particularly on the composition of the population, but there was a lack of funds and technical assistance would be required. The allocation of budgetary resources among the ministries (2 per cent for health, about 10 per cent for education and 31 per cent for defence) clearly depended on certain conditions that were well known to all.

37. Mr. DAWALIBI (Syrian Arab Republic), replying to the comments made on the question of discrimination, said that the Constitution and laws of the Syrian Arab Republic were perfectly clear on that issue and, in particular, guaranteed everyone the right to freedom of opinion and belief. On the specific point of the acquisition of nationality, there were proposals to modify the law so that not only the father but also the mother could give their nationality to the child. Children were not discriminated against on account of their ethnic origin and children without Syrian citizenship had the same fundamental rights as Syrian children. An unregistered child was also covered by the law, but parents who did not register their children or send them to school could be penalized. Lastly, the age for enrolment of young people into the army was set at 19 years.

38. With regard to health, children could receive medical care only with the agreement of their parents or guardians except, of course, in cases of emergency. As to the question of sexuality, it should be pointed out that pornography was banned. Sexual intercourse was permitted within marriage. He could reassure Mrs. Badran, who had said that early marriage might perhaps put young girls in a situation of inequality in terms of education, that his Government was conducting the necessary awareness-raising and training programmes, in cooperation with NGOs and international organizations concerned with children. The Syrian authorities were anxious to promote the best interests of the child and would certainly take account of the Committee's comments and incorporate suggestions for that purpose into future programmes.

39. Mr. NSEIR (Syrian Arab Republic) said that his Government would endeavour, despite its modest resources, to improve and build upon the existing mechanisms for promoting the rights of the child, in order to achieve positive results which could be reflected in the statistics in future. Syrian legislation was already largely in conformity with the provisions of the Convention, but since the Convention in any event prevailed over national legislation, the Government would see to it that the minor adjustments still required were made.

40. Mr. HAMMARBERG, referring to the question of the exercise by the Kurds of their civil rights, noted that according to the State party itself the census carried out in the north of the country in the early 1960s had without doubt been somewhat arbitrary. However, the procedures applied to remedy that situation, as they had been described, seemed extremely cumbersome. The urgency of the situation and the requirements of the Convention obliged the State party to act more quickly to grant Syrian citizenship to stateless children born and residing in the Syrian Arab Republic.

41. The information communicated by the State party suggested that the situation in the field of education was satisfactory. However, other information sources reported a number of problems, in particular regarding access to higher education for children with a different citizenship status. In his view, therefore, the State party should pursue a policy to promote children's rights that was more direct and closer to the Convention, ensuring for each child the right to the nationality of the country in which he or she lived.

42. Mrs. KARP, returning to the question of early marriage, observed that arranging for a marriage between children who were not of the required age was an offence in some countries. However, since the delegation had not returned to the question of taking the child's views into account, she assumed that the authorities would take the necessary steps to ensure that the child's opinion could be heard.

43. Mrs. SANTOS PAIS said that she had taken note of the State party's views concerning the politicization of the Kurdish issue. However, she wished to point out that, under article 2 of the Convention, States parties were required to ensure the rights set forth in the Convention for each child within their jurisdiction. By denying Syrian nationality to Kurdish children deprived of a nationality, the Syrian Arab Republic was contravening article 7 of the Convention, which enshrined the right of every child to a nationality, in particular where the child would otherwise be stateless. It also appeared that Kurdish children were being stigmatized, since the Kurds were considered as a distinct population group on account of their ethnic and national origin, and that too was contrary to the requirements of article 2. On completing their school education, moreover, Kurdish children received a lower diploma, hardly preparing them to be integrated into the life and society of the country. On the basis of humanitarian, and not political, considerations, the State party should therefore review its legislation and procedures.

44. The laws and procedures concerning the registration of refugee children born in Syria should also be revised. The State party could hardly claim that its juridical framework in that regard was satisfactory until it had made an

exhaustive study of all the pertinent elements of the legislation, and any gaps or inconsistencies relative to the Convention. Having recognized the primacy of the Convention over national legislation, the State party should adapt its laws concerning children in all areas, if possible in close cooperation with UNICEF, the Centre for Human Rights and NGOs. The provisions concerning the name of the child should also be reviewed to ensure equality between the two parents, so that the child bearing the name of his or her mother was not immediately identified as being of an unknown father.

45. Mr. KOLOSOV agreed that the question of the nationality of Kurdish children should not be viewed from a political standpoint. There was no Kurdish nation or Kurdish State. The Kurds had settled in several countries, including some of the new independent States of the former Soviet Union, such as Azerbaijan and Georgia, whose nationality they had naturally acquired. In the Syrian Arab Republic, however, the Kurds were registered as "aliens". In terms of the universal norms of law whereby nationality established a stable legal relationship between a person and a particular State, it was hard to see whether the Syrian authorities considered the Kurds as citizens of another country, which was generally the meaning of "aliens", or rather as stateless refugees. Whatever the case, ethnic origin was irrelevant and children born in the Syrian Arab Republic should not be deprived of nationality or citizenship. There also seemed to be an amalgamation of two concepts in the wording of the Nationality Act, which spoke of "Syrian Arabs". In any event, the Syrian authorities should look for a solution enabling them to harmonize their legislation with the provisions of article 7 of the Convention, if necessary drawing upon the 1961 Convention on the Reduction of Statelessness.

The meeting rose at 1.05 p.m.